

MAINE REVENUE SERVICES
GUIDE TO THE REAL ESTATE TRANSFER TAX FORM
August 2004

REAL ESTATE TRANSFER TAX FORM

Except as listed below, when a deed is recorded, it must be accompanied by a declaration prepared in duplicate. If exemptions are improper and additional tax is due or the form is not filled out completely according to the statute and rules of the State Tax Assessor, then the Register is not required to accept the deed for recording.

NO declaration of value is required for the following types of transactions:

1. Government Conveyance. Only the governmental party is exempt from this requirement.
2. Mortgage or mortgage discharge.
3. Partial release of mortgage.
4. Deed affecting a previous deed (corrective).
5. Deed dated prior to October 1, 1975.
6. Deed of distribution.

§4641-A. RATE OF TAX

A tax is imposed on each deed by which any real property in this State is transferred. The rate of the tax is \$2.20 for each \$500 or fractional part of \$500 of the value of the property transferred. The tax is imposed 1/2 on the grantor and 1/2 on the grantee.

§4641-C. NO TAX is collected on the following exemptions:

1. Governmental entities. Includes Federal, State, County, municipalities and their instrumentalities, agencies and subdivisions. Does NOT include "Freddie Mac" or "Fannie Mae". Only the governmental entity is exempt from the tax, unless it is a gift to the entity, or involves D.O.T. and the Turnpike Authority. This includes transfers with or without consideration.
2. Mortgage deeds, discharges and partial releases. However, if the foreclosure also requires a public sale be held, and if the mortgagee (bank or loaner) submits the high bid, only the profit is taxable. If a third party gets the bid, he is fully taxable but the mortgagee only pays tax on the profit. Profit is the amount above and beyond the sum required to satisfy the claim.
3. Correctional deeds. These deeds correct a previous error between the same parties. There must be no consideration, no change in information, no change in interest and no substantial change in property description.
4. Family members. Only transfers involving husband and wife, or parent and child (or parent to child and child's spouse as joint tenants) with NO consideration are exempt. Otherwise the transfer is taxable. Transfers according to a divorce decree are exempt even with consideration.
5. Tax Deeds. Lien recordings, tax foreclosures.
6. Partition. For example, if 4 people own 40 acres and decide to split into 4 ten acre parcels equally amongst themselves, with no consideration, there would be no transfer tax. However, if one of the four people took a parcel with greater value, they would pay tax on that difference.
7. Pursuant to mergers. These are rare. Corporations who merge with no gain or loss recognized.
8. Subsidiary. From subsidiary to its parent corporation with no consideration. Subsidiary to subsidiary is taxable.
9. Pre October 1, 1975. Deeds dated prior to this date but recorded later.
10. Parent Corporation. From parent to its subsidiary for no consideration.

11. Distribution. Specific distribution requirements based on a will.
12. Public officials. For example, if a forestry department transfers property, using an authorized official within their department as the agent.
13. Foreclosure. Conveys property back to a lender holding a mortgage. This happens only with deeds to a mortgagee (lender) when the mortgagor (borrower) is default.
14. U.S. Bankruptcy Code. These may look like any other deed between parties, except that they are executed by the trustee in bankruptcy or ordered by the court.
15. Trustee, nominee, straw. When real estate is put into a trust and the trustee is the grantor or from the same trustee back to themselves. When a property transfers from a trust, we need to look at the parties involved and determine taxable status.
16. Family Corporations, partnerships and LLC's. Only when transfers within these entities are between 'family' members (related by common descendant, adoption or marriage) and if the parties are receiving the same proportionate ownership interest.
17. Charitable conservation organizations. GIFTS (not sales) of land to an entity that meets the requirement for conservation purposes as defined in Title 33, section 476, sub 2, par B. Both parties are exempt if this is a gift. (Conservation purposes include protecting natural scenic value, natural resources, recreational use).
18. LLC's. From a corporation, general partnership or LLC to an LLC if the grantor or grantee owns an interest in the same proportion.
19. Change in identity of ownership. From one entity to another when the ownership interest is the same. A transfer between two corporations with the same stockholders is taxable.
20. Controlling interest. Any transfer considered to be a controlling interest (stock transfer) that meets the same exempt status as all of the above.

§4641-D. FORM REQUIREMENTS

The declaration must be in a form prescribed by the State Tax Assessor. (It should be noted here that, since the State Tax Assessor has the power to create and administer the form of the Declaration that the other elements of the form are also required by law, even though not specifically stated in the statute. Thus the registries may refuse to accept a document for recording if the Declaration of Value is not fully filled out by the parties.)

1. Municipality or Township and County - MUST be entered.
2. Grantee (Buyer) – All grantees MUST be listed here. Attach a separate list of additional names if there is no room. The SSN must not appear within the Identity block area. SSN's are not required if the transfer involves a sale of less than \$25,000 for a parcel of undeveloped land or less than \$50,000 for a developed parcel.
3. Mailing address MUST be complete.
4. Grantor (Seller) – Same as grantee.
5. Mailing address MUST be complete.
6. Tax Map and Lot Number – MUST be entered. If there is none, then explain why and enter a road name or other description.
7. Date of transfer – MUST be entered.

Warning to buyer – this MUST be entered by the seller. They should know whether the property is enrolled in one of the mentioned programs.

8. Consideration – **ONLY ONE LINE IS FILLED IN**. It will be one or the other and never both. The old forms were misleading. **"fair market value"** line must be entered if the property is a gift or the consideration paid was of nominal value (for example, a friend buys land for \$200, but it is valued at \$20,000). Even if the parties are exempt from the tax itself, they are not exempt from entering a

value. This is required. The “**consideration**” line is filled in if there was an actual amount paid, whether received in money or otherwise .

9. Exemption – If one or both parties are claiming exemption, then the appropriate reason **MUST** be written, whether through statute section number or explanation.
10. Special Circumstances – if the property sold at an amount which represents a value other than market value, they need to check this box and explain (for example, a foreclosure sale). If there was no consideration and they entered a fair market value, then they need to explain the basis for the value (for example appraisal, assessment, etc). This often gets overlooked.
11. Withholding – The parties **MUST** check the applicable box.
12. Oath – The form **MUST** be signed by all parties involved or their legal representative. (Attorney, POA, Title Company)
13. Preparer – This provides information to the registry or to the Maine Revenue Services if there should be additional information needed.

**BEFORE SUBMITTING THE TWO PART FORM TO THE COUNTY REGISTRY,
please review the following:**

1. All data must be legible on both pages.
2. Second page copy must be complete and duplicate the original copy, except for the SSN field.
3. Please do not use staples or tape, and limit the use of paper clips.
4. Attachments should be 8 ½ X 11 and not larger.

Use of Non- State Forms

The introduction of the new format being printed by Title Companies onto NCR paper has brought a few issues with forms not being completed or printed correctly. These companies that continue to abuse the electronic version will be forced to cease using them.

In the event that a company has been notified to use only the State’s two part form, the registry will be notified.

Registries may at any time, refuse to record a deed due to an incomplete transfer tax form. If there is any question or you need any assistance at any time, please contact Judy Mathiau (287-4786) or David Ledew (287-4787).

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